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AMENDED IN SENATE AUGUST 19, 2014
AMENDED IN SENATE JULY 2, 2014
AMENDED IN ASSEMBLY MAY 6, 2014
AMENDED IN ASSEMBLY MARCH 24, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1607

Introduced by Assembly Member Fox

February 5, 2014

An act to ~~amend, repeal, and add~~ *amend* Sections 6608 and 6608.5 of the Welfare and Institutions Code, relating to sexually violent predators.

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, as amended, Fox. Sexually violent predators.

Existing law provides for the civil commitment of criminal offenders who have been determined to be sexually violent predators for treatment in a secure state hospital facility, as specified. Existing law requires the Secretary of the Department of Corrections and Rehabilitation to refer a prisoner for evaluation by the State Department of State Hospitals when the secretary determines that the person may be a sexually violent predator and specifies the judicial processes necessary for civil commitment as a sexually violent predator, including, but not limited to, the right to a jury trial. Existing law establishes provisions by which a committed person may petition for conditional release. Existing law requires the court, if it decides a petition for conditional release is not

frivolous, to give notice, as specified, at least 30 court days prior to the hearing date for the petition. Existing law requires a person who is conditionally released pursuant these provisions to be placed in the county of the domicile of the person prior to the person's incarceration, unless the court finds that extraordinary circumstances require placement outside the county of domicile.

This bill ~~would, commencing January 1, 2016,~~ *would* recast these provisions to require the court, if it determines that the petition is not frivolous, to give notice of the court's intention to conduct a conditional release hearing. The bill would require the person petitioning for conditional release, the Director of State Hospitals, and the designated attorney of the county of commitment to notify the court within 30 court days of receipt of this notice if it appears that a county other than the county of commitment may be the county of domicile. The bill would provide that the court's determination of the county of domicile would govern the current petition for conditional release, and would apply to any subsequent petitions for conditional release. The bill would require that after determining the county of domicile, the court set a date for the conditional release hearing and provide notice, as specified. The bill would authorize the designated attorney for the county of domicile and the designated attorney for the county of commitment, as defined, to mutually agree that the designated attorney for the county of domicile will represent the state at the conditional release hearing if the county of domicile is different than the county of commitment. If the designated attorneys do not make that agreement, the bill would provide that the designated attorney for the county of commitment will represent the state at the conditional release hearing, as specified. The bill would provide that if the committed person has been conditionally released in a county other than the county of commitment, the jurisdiction of the person ~~would, upon request of the designated attorney of the county of placement,~~ *would* be transferred to the court of the county of placement, *unless the designated attorney in the county of placement objects, as provided.* The bill would additionally require that a person who is conditionally released pursuant to these provisions be placed in the county of the domicile of the person prior to the person's incarceration, unless the designated county of placement was given prior notice and an opportunity to comment on the proposed placement of the committed person in the county, as specified.

By imposing additional duties on counties in regard to conditional releases of committed persons, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6608 of the Welfare and Institutions Code
2 is amended to read:
3 6608. (a) A person who has been committed as a sexually
4 violent predator shall be permitted to petition the court for
5 conditional release with or without the recommendation or
6 concurrence of the Director of State Hospitals. If a person has
7 previously filed a petition for conditional release without the
8 concurrence of the director and the court determined, either upon
9 review of the petition or following a hearing, that the petition was
10 frivolous or that the committed person's condition had not so
11 changed that he or she would not be a danger to others in that it is
12 not likely that he or she will engage in sexually violent criminal
13 behavior if placed under supervision and treatment in the
14 community, ~~then~~ the court shall deny the subsequent petition unless
15 it contains facts upon which a court could find that the condition
16 of the committed person had so changed that a hearing was
17 warranted. Upon receipt of a first or subsequent petition from a
18 committed person without the concurrence of the director, the
19 court shall endeavor whenever possible to review the petition and
20 determine if it is based upon frivolous grounds and, if so, shall
21 deny the petition without a hearing. The person petitioning for
22 conditional release under this subdivision shall be entitled to
23 assistance of counsel *in all hearings under this section*. The person
24 petitioning for conditional release shall serve a copy of the petition

1 on the State Department of State Hospitals at the time the petition
2 is filed with the court.

3 *(b) The procedure for a conditional release hearing in a case*
4 *where the county of domicile has not yet been determined shall be*
5 *as follows:*

6 ~~(b)~~

7 *(1) If the court deems the petition not frivolous pursuant to*
8 *subdivision (a), the court shall give notice of the hearing date to*
9 *the attorney designated in subdivision (i) of Section 6601, the*
10 *retained or appointed attorney for the committed person, and the*
11 *Director of State Hospitals at least of its intention to set a*
12 *conditional release hearing. The person petitioning for conditional*
13 *release, the Director of State Hospitals, and the designated*
14 *attorney of the county of commitment shall notify the court within*
15 *30 court days before the hearing date of receipt of this notice if it*
16 *appears that a county other than the county of commitment may*
17 *be the county of domicile.*

18 *(2) If no county other than the county of commitment appears*
19 *to be the county of domicile, the court shall determine, consistent*
20 *with Section 6608.5, that the county of commitment is the county*
21 *of domicile.*

22 *(3) If it appears or there are allegations that one or more*
23 *counties, other than the county of commitment, may be the county*
24 *of domicile, the court shall set a hearing to determine the county*
25 *of domicile, consistent with the provisions of Section 6608.5. The*
26 *court shall, at least 30 court days prior to the hearing, give notice*
27 *of the domicile hearing to the persons listed in paragraph (1) and*
28 *to the designated attorney for any county that is alleged to be the*
29 *county of domicile. Persons listed in this paragraph and paragraph*
30 *(1) may, at least 10 court days prior to the hearing, file and serve*
31 *declarations, documentary evidence, and other pleadings, that are*
32 *specific only to the issue of domicile. The court may, consistent*
33 *with Section 6608.5, decide the issue of domicile solely on the*
34 *pleadings, or additionally permit, in the interests of justice,*
35 *argument and testimony.*

36 *(4) After determining the county of domicile pursuant to*
37 *paragraph (2) or (3), the court shall set a date for a conditional*
38 *release hearing and shall give notice of the hearing at least 30*
39 *court days before the hearing to the persons described in*

1 paragraph (1) and the designated attorney for the county of
2 domicile.

3 (5) (A) If the county of domicile is different than the county of
4 commitment, the designated attorney for the county of domicile
5 and the designated attorney for the county of commitment may
6 mutually agree that the designated attorney for the county of
7 domicile will represent the state at the conditional release hearing.
8 If the designated attorneys do not make this agreement, the
9 designated attorney for the county of commitment will represent
10 the state at the conditional release hearing.

11 (B) At least 20 court days before the conditional release hearing,
12 the designated attorney for the county of commitment shall give
13 notice to the parties listed in paragraph (1) and to the court
14 whether the state will be represented by the designated attorney
15 of the county of domicile or the designated attorney of the county
16 of commitment.

17 (C) The designated attorney for the county of domicile and the
18 designated attorney for the county of commitment should cooperate
19 with each other to ensure that all relevant evidence is submitted
20 on behalf of the state. No attorney other than the designated
21 attorney for the county representing the state shall appear on
22 behalf of the state at the conditional release hearing.

23 (6) The court's determination of a county of domicile shall
24 govern the current and any subsequent petition for conditional
25 release under this section.

26 (7) For the purpose of this subdivision, the term "county of
27 domicile" shall have the same meaning as defined in Section
28 6608.5.

29 (8) For purposes of this section, the term "designated attorney
30 of the county of commitment" means the attorney designated in
31 subdivision (i) of Section 6601 in the county of commitment.

32 (9) For purposes of this section, the term "designated attorney
33 for the county of domicile" means the attorney designated in
34 subdivision (i) of Section 6601 in the county of domicile.

35 (c) The proceedings for a conditional release hearing in a case
36 where the court has previously determined the county of domicile
37 shall be as follows:

38 (1) If the court determines, pursuant to subdivision (a), that the
39 petition is not frivolous, the court shall give notice of the hearing
40 date at least 30 days prior to the hearing to the designated

1 attorneys for the county of domicile and the county of commitment,
 2 the retained or appointed attorney for the petitioner, and the
 3 Director of State Hospitals.

4 (2) Representation of the state at the conditional release hearing
 5 shall be pursuant to paragraph (5) of subdivision (b).

6 (d) (1) If a committed person has been conditionally released
 7 by a court to a county other than the county of domicile, and the
 8 jurisdiction of the person has been transferred to that county,
 9 pursuant to subdivision (g) of Section 6608.5, the notice specified
 10 in paragraph (1) of subdivision (c) shall be given to the designated
 11 attorney of the county of placement, who shall represent the state
 12 in any further proceedings.

13 (2) The term “county of placement” means the county where
 14 the court has placed a person who is granted conditional release.

15 (e)

16 (e) If the petition for conditional release is made without the
 17 consent of the director of the treatment facility, no action shall be
 18 taken on the petition by the court without first obtaining the written
 19 recommendation of the director of the treatment facility.

20 (d) ~~No~~

21 (f) A hearing upon the petition shall *not* be held until the person
 22 who is committed has been under commitment for confinement
 23 and care in a facility designated by the Director of State Hospitals
 24 for not less than one year from the date of the order of commitment.
 25 ~~No~~ A hearing upon the petition shall *not* be held until the
 26 community program director designated by the State Department
 27 of State Hospitals submits a report to the court that makes a
 28 recommendation as to the appropriateness of placing the person
 29 in a state-operated forensic conditional release program.

30 (e)

31 (g) The court shall hold a hearing to determine whether the
 32 person committed would be a danger to the health and safety of
 33 others in that it is likely that he or she will engage in sexually
 34 violent criminal behavior due to his or her diagnosed mental
 35 disorder if under supervision and treatment in the community. The
 36 attorney designated pursuant to ~~subdivision (i) of Section 6601~~
 37 ~~paragraph (5) of subdivision (b)~~ shall represent the state and shall
 38 may have the committed person evaluated by experts chosen by
 39 the state. The committed person shall have the right to the
 40 appointment of experts, if he or she so requests. If the court at the

1 hearing determines that the committed person would not be a
2 danger to others due to his or her diagnosed mental disorder while
3 under supervision and treatment in the community, the court shall
4 order the committed person placed with an appropriate forensic
5 conditional release program operated by the state for one year. A
6 substantial portion of the state-operated forensic conditional release
7 program shall include outpatient supervision and treatment. The
8 court shall retain jurisdiction of the person throughout the course
9 of the program, *except as provided in subdivision (g) of Section*
10 *6608.5.*

11 ~~(f)~~
12 (h) Before placing a committed person in a state-operated
13 forensic conditional release program, the community program
14 director designated by the State Department of State Hospitals
15 shall submit a written recommendation to the court stating which
16 forensic conditional release program is most appropriate for
17 supervising and treating the committed person. If the court does
18 not accept the community program director's recommendation,
19 the court shall specify the reason or reasons for its order on the
20 record. The procedures described in Sections 1605 to 1610,
21 inclusive, of the Penal Code shall apply to the person placed in
22 the forensic conditional release program.

23 ~~(g)~~
24 (i) If the court determines that the person should be transferred
25 to a state-operated forensic conditional release program, the
26 community program director, or his or her designee, shall make
27 the necessary placement arrangements and, within 30 days after
28 receiving notice of the court's finding, the person shall be placed
29 in the community in accordance with the treatment and supervision
30 plan unless good cause for not doing so is presented to the court.

31 ~~(h)~~
32 (j) If the court denies the petition to place the person in an
33 appropriate forensic conditional release program, the person may
34 not file a new application until one year has elapsed from the date
35 of the denial.

36 ~~(i)~~
37 (k) In a hearing authorized by this section, the committed person
38 shall have the burden of proof by a preponderance of the evidence,
39 unless the report required by Section 6604.9 determines that
40 conditional release to a less restrictive alternative is in the best

1 interest of the person and that conditions can be imposed that would
2 adequately protect the community, in which case the burden of
3 proof shall be on the state to show, by a preponderance of the
4 evidence, that conditional release is not appropriate.

5 (j)

6 (l) Time spent in a conditional release program pursuant to this
7 section shall not count toward the term of commitment under this
8 article unless the person is confined in a locked facility by the
9 conditional release program, in which case the time spent in a
10 locked facility shall count toward the term of commitment.

11 (k)

12 (m) After a minimum of one year on conditional release, the
13 committed person, with or without the recommendation or
14 concurrence of the Director of State Hospitals, may petition the
15 court for unconditional discharge. The court shall use the
16 procedures described in subdivisions (a) and (b) of Section 6605
17 to determine if the person should be unconditionally discharged
18 from commitment on the basis that, by reason of a diagnosed
19 mental disorder, he or she is no longer a danger to the health and
20 safety of others in that it is not likely that he or she will engage in
21 sexually violent criminal behavior.

22 (t) This section shall remain in effect only until January 1, 2016,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2016, deletes or extends that date.

25 SEC. 2. Section 6608 is added to the Welfare and Institutions
26 Code, to read:

27 6608. (a) A person who has been committed as a sexually
28 violent predator shall be permitted to petition the court for
29 conditional release with or without the recommendation or
30 concurrence of the Director of State Hospitals. If a person has
31 previously filed a petition for conditional release without the
32 concurrence of the director and the court determined, either upon
33 review of the petition or following a hearing, that the petition was
34 frivolous or that the committed person's condition had not so
35 changed that he or she would not be a danger to others in that it is
36 not likely that he or she will engage in sexually violent criminal
37 behavior if placed under supervision and treatment in the
38 community, the court shall deny the subsequent petition unless it
39 contains facts upon which a court could find that the condition of
40 the committed person had so changed that a hearing was warranted.

1 Upon receipt of a first or subsequent petition from a committed
2 person without the concurrence of the director, the court shall
3 endeavor whenever possible to review the petition and determine
4 if it is based upon frivolous grounds and, if so, shall deny the
5 petition without a hearing. The person petitioning for conditional
6 release under this subdivision shall be entitled to assistance of
7 counsel in all hearings under this section. The person petitioning
8 for conditional release shall serve a copy of the petition on the
9 State Department of State Hospitals at the time the petition is filed
10 with the court.

11 (b) The procedure for a conditional release hearing in a case
12 where the county of domicile has not yet been determined shall
13 be as follows:

14 (1) If the court deems the petition not frivolous pursuant to
15 subdivision (a), the court shall give notice to the attorney
16 designated in subdivision (i) of Section 6601, the retained or
17 appointed attorney for the committed person, and the Director of
18 State Hospitals of its intention to set a conditional release hearing.
19 The person petitioning for conditional release, the Director of State
20 Hospitals, and the designated attorney of the county of commitment
21 shall notify the court within 30 court days of receipt of this notice
22 if it appears that a county other than the county of commitment
23 may be the county of domicile.

24 (2) If no county other than the county of commitment appears
25 to be the county of domicile, the court shall determine, consistent
26 with Section 6608.5, that the county of commitment is the county
27 of domicile.

28 (3) If it appears or there are allegations that one or more
29 counties, other than the county of commitment, may be the county
30 of domicile, the court shall set a hearing to determine the county
31 of domicile, consistent with the provisions of Section 6608.5. The
32 court shall, at least 30 court days prior to the hearing, give notice
33 of the domicile hearing to the persons listed in paragraph (1) and
34 to the designated attorney for any county that is alleged to be the
35 county of domicile. Persons listed in this paragraph and paragraph
36 (1) may, at least 10 court days prior to the hearing, file and serve
37 declarations, documentary evidence, and other pleadings, that are
38 specific only to the issue of domicile. The court may, consistent
39 with Section 6608.5, decide the issue of domicile solely on the

1 pleadings, or additionally permit, in the interests of justice,
2 argument and testimony.

3 (4) After determining the county of domicile pursuant to
4 paragraph (2) or (3), the court shall set a date for a conditional
5 release hearing and shall give notice of the hearing at least 30 court
6 days before the hearing to the persons described in paragraph (1)
7 and the designated attorney for the county of domicile.

8 (5) (A) If the county of domicile is different than the county of
9 commitment, the designated attorney for the county of domicile
10 and the designated attorney for the county of commitment may
11 mutually agree that the designated attorney for the county of
12 domicile will represent the state at the conditional release hearing.
13 If the designated attorneys do not make this agreement, the
14 designated attorney for the county of commitment will represent
15 the state at the conditional release hearing.

16 (B) At least 20 court days before the conditional release hearing,
17 the designated attorney for the county of commitment shall give
18 notice to the parties listed in paragraph (1) and to the court whether
19 the state will be represented by the designated attorney of the
20 county of domicile or the designated attorney of the county of
21 commitment.

22 (C) The designated attorney for the county of domicile and the
23 designated attorney for the county of commitment should cooperate
24 with each other to ensure that all relevant evidence is submitted
25 on behalf of the state. No attorney other than the designated
26 attorney for the county representing the state shall appear on behalf
27 of the state at the conditional release hearing.

28 (6) The court's determination of a county of domicile shall
29 govern the current and any subsequent petition for conditional
30 release under this section.

31 (7) For the purpose of this subdivision, the term "county of
32 domicile" shall have the same meaning as defined in Section
33 6608.5.

34 (8) For purposes of this section, the term "designated attorney
35 of the county of commitment" means the attorney designated in
36 subdivision (i) of Section 6601 in the county of commitment.

37 (9) For purposes of this section, the term "designated attorney
38 for the county of domicile" means the attorney designated in
39 subdivision (i) of Section 6601 in the county of domicile.

1 ~~(e) The proceedings for a conditional release hearing in a case~~
2 ~~where the court has previously determined the county of domicile~~
3 ~~shall be as follows:~~

4 ~~(1) If the court determines, pursuant to subdivision (a), that the~~
5 ~~petition is not frivolous, the court shall give notice of the hearing~~
6 ~~date at least 30 days prior to the hearing to the designated attorneys~~
7 ~~for the county of domicile and the county of commitment, the~~
8 ~~retained or appointed attorney for the petitioner, and the Director~~
9 ~~of State Hospitals.~~

10 ~~(2) Representation of the state at the conditional release hearing~~
11 ~~shall be pursuant to paragraph (5) of subdivision (b).~~

12 ~~(d) (1) If a committed person has been conditionally released~~
13 ~~by a court to a county other than the county of domicile, and the~~
14 ~~jurisdiction of the person has been transferred to that county,~~
15 ~~pursuant to subdivision (g) of Section 6608.5, the notice specified~~
16 ~~in paragraph (1) of subdivision (c) shall be given to the designated~~
17 ~~attorney of the county of placement who shall represent the state~~
18 ~~in any further proceedings.~~

19 ~~(2) The term “county of placement” means the county where~~
20 ~~the court has placed a person who is granted conditional release.~~

21 ~~(e) If the petition for conditional release is made without the~~
22 ~~consent of the director of the treatment facility, no action shall be~~
23 ~~taken on the petition by the court without first obtaining the written~~
24 ~~recommendation of the director of the treatment facility.~~

25 ~~(f) A hearing upon the petition shall not be held until the person~~
26 ~~who is committed has been under commitment for confinement~~
27 ~~and care in a facility designated by the Director of State Hospitals~~
28 ~~for not less than one year from the date of the order of commitment.~~
29 ~~A hearing upon the petition shall not be held until the community~~
30 ~~program director designated by the State Department of State~~
31 ~~Hospitals submits a report to the court that makes a~~
32 ~~recommendation as to the appropriateness of placing the person~~
33 ~~in a state-operated forensic conditional release program.~~

34 ~~(g) The court shall hold a hearing to determine whether the~~
35 ~~person committed would be a danger to the health and safety of~~
36 ~~others in that it is likely that he or she will engage in sexually~~
37 ~~violent criminal behavior due to his or her diagnosed mental~~
38 ~~disorder if under supervision and treatment in the community. The~~
39 ~~attorney designated pursuant to paragraph (5) of subdivision (b)~~
40 ~~shall represent the state and shall have the committed person~~

1 evaluated by experts chosen by the state. The committed person
2 shall have the right to the appointment of experts, if he or she so
3 requests. If the court at the hearing determines that the committed
4 person would not be a danger to others due to his or her diagnosed
5 mental disorder while under supervision and treatment in the
6 community, the court shall order the committed person placed with
7 an appropriate forensic conditional release program operated by
8 the state for one year. A substantial portion of the state-operated
9 forensic conditional release program shall include outpatient
10 supervision and treatment. The court shall retain jurisdiction of
11 the person throughout the course of the program, except as
12 provided in subdivision (g) of Section 6608.5.

13 (h) Before placing a committed person in a state-operated
14 forensic conditional release program, the community program
15 director designated by the State Department of State Hospitals
16 shall submit a written recommendation to the court stating which
17 forensic conditional release program is most appropriate for
18 supervising and treating the committed person. If the court does
19 not accept the community program director's recommendation,
20 the court shall specify the reason or reasons for its order on the
21 record. The procedures described in Sections 1605 to 1610,
22 inclusive, of the Penal Code shall apply to the person placed in
23 the forensic conditional release program.

24 (i) If the court determines that the person should be transferred
25 to a state-operated forensic conditional release program, the
26 community program director, or his or her designee, shall make
27 the necessary placement arrangements and, within 30 days after
28 receiving notice of the court's finding, the person shall be placed
29 in the community in accordance with the treatment and supervision
30 plan unless good cause for not doing so is presented to the court.

31 (j) If the court denies the petition to place the person in an
32 appropriate forensic conditional release program, the person may
33 not file a new application until one year has elapsed from the date
34 of the denial.

35 (k) In a hearing authorized by this section, the committed person
36 shall have the burden of proof by a preponderance of the evidence,
37 unless the report required by Section 6604.9 determines that
38 conditional release to a less restrictive alternative is in the best
39 interest of the person and that conditions can be imposed that would
40 adequately protect the community, in which case the burden of

1 proof shall be on the state to show, by a preponderance of the
2 evidence, that conditional release is not appropriate.

3 ~~(l) Time spent in a conditional release program pursuant to this~~
4 ~~section shall not count toward the term of commitment under this~~
5 ~~article unless the person is confined in a locked facility by the~~
6 ~~conditional release program, in which case the time spent in a~~
7 ~~locked facility shall count toward the term of commitment.~~

8 ~~(m) After a minimum of one year on conditional release, the~~
9 ~~committed person, with or without the recommendation or~~
10 ~~concurrence of the Director of State Hospitals, may petition the~~
11 ~~court for unconditional discharge. The court shall use the~~
12 ~~procedures described in subdivisions (a) and (b) of Section 6605~~
13 ~~to determine if the person should be unconditionally discharged~~
14 ~~from commitment on the basis that, by reason of a diagnosed~~
15 ~~mental disorder, he or she is no longer a danger to the health and~~
16 ~~safety of others in that it is not likely that he or she will engage in~~
17 ~~sexually violent criminal behavior.~~

18 ~~(n) This section shall become operative on January 1, 2016.~~

19 ~~SEC. 3.~~

20 ~~SEC. 2. Section 6608.5 of the Welfare and Institutions Code~~
21 ~~is amended to read:~~

22 6608.5. (a) A person who is conditionally released pursuant
23 to this article shall be placed in the county of the domicile of the
24 person prior to the person's incarceration, unless ~~the court finds~~
25 ~~that extraordinary circumstances require placement outside the~~
26 ~~county of domicile. both of the following conditions are satisfied:~~

27 ~~(1) The court finds that extraordinary circumstances require~~
28 ~~placement outside the county of domicile.~~

29 ~~(2) The designated county of placement was given prior notice~~
30 ~~and an opportunity to comment on the proposed placement of the~~
31 ~~committed person in the county, according to procedures set forth~~
32 ~~in Section 6609.1.~~

33 (b) (1) For the purposes of this section, "county of domicile"
34 means the county where the person has his or her true, fixed, and
35 permanent home and principal residence and to which he or she
36 has manifested the intention of returning whenever he or she is
37 absent. For the purposes of determining the county of domicile,
38 the court may consider information found on a California driver's
39 license, California identification card, recent rent or utility receipt,
40 printed personalized checks or other recent banking documents

1 showing that person’s name and address, or information contained
2 in an arrest record, probation officer’s report, trial transcript, or
3 other court document. If no information can be identified or
4 verified, the county of domicile of the individual shall be
5 considered to be the county in which the person was arrested for
6 the crime for which he or she was last incarcerated in the state
7 prison or from which he or she was last returned from parole.

8 (2) In a case where the person committed a crime while being
9 held for treatment in a state hospital, or while being confined in a
10 state prison or local jail facility, the county wherein that facility
11 was located shall not be considered the county of domicile unless
12 the person resided in that county prior to being housed in the
13 hospital, prison, or jail.

14 (c) For the purposes of this section, “extraordinary
15 circumstances” means circumstances that would inordinately limit
16 the department’s ability to effect conditional release of the person
17 in the county of domicile in accordance with Section 6608 or any
18 other provision of this article, and the procedures described in
19 Sections 1605 to 1610, inclusive, of the Penal Code.

20 (d) The county of domicile shall designate a county agency or
21 program that will provide assistance and consultation in the process
22 of locating and securing housing within the county for persons
23 committed as sexually violent predators who are about to be
24 conditionally released under Section 6608. Upon notification by
25 the department of a person’s potential or expected conditional
26 release under Section 6608, the county of domicile shall notify the
27 department of the name of the designated agency or program, at
28 least 60 days before the date of the potential or expected release.

29 (e) In recommending a specific placement for community
30 outpatient treatment, the department or its designee shall consider
31 all of the following:

32 (1) The concerns and proximity of the victim or the victim’s
33 next of kin.

34 (2) The age and profile of the victim or victims in the sexually
35 violent offenses committed by the person subject to placement.
36 For purposes of this subdivision, the “profile” of a victim includes,
37 but is not limited to, gender, physical appearance, economic
38 background, profession, and other social or personal characteristics.

39 (f) Notwithstanding any other provision of law, a person released
40 under this section shall not be placed within one-quarter mile of

1 any public or private school providing instruction in kindergarten
2 or any of grades 1 to 12, inclusive, if either of the following
3 conditions exist:

4 (1) The person has previously been convicted of a violation of
5 Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of
6 subdivision (c) of Section 288 of, the Penal Code.

7 (2) The court finds that the person has a history of improper
8 sexual conduct with children.

9 ~~(g) This section shall remain in effect only until January 1, 2016,~~
10 ~~and as of that date is repealed, unless a later enacted statute, that~~
11 ~~is enacted before January 1, 2016, deletes or extends that date.~~

12 *(g) (1) Except as provided in paragraph (2), if the committed*
13 *person is ordered to be conditionally released in a county other*
14 *than the county of commitment, the court shall order that*
15 *jurisdiction of the person and all records related to the case be*
16 *transferred to the court of the county of placement. Upon transfer*
17 *of jurisdiction to the county of placement, the designated attorney*
18 *of the county of placement shall represent the state in all further*
19 *proceedings.*

20 *(2) The designated attorney of the county of commitment shall*
21 *serve written notice upon the designated attorney for the county*
22 *of placement within 15 court days of an order to place a committed*
23 *person in the county of placement. The designated attorney of the*
24 *county of placement may file an affidavit with the court in the*
25 *county of commitment objecting to the transfer of jurisdiction*
26 *within 15 court days after receiving the notice. If the affidavit*
27 *objecting to the transfer of jurisdiction is timely filed, the court*
28 *shall not transfer jurisdiction. If an affidavit objecting to the*
29 *transfer of jurisdiction is not timely filed, paragraph (1) shall*
30 *apply.*

31 *(3) For the purpose of this section, “county of placement” means*
32 *the county where the court orders the committed person to be*
33 *placed for conditional release.*

34 *(4) For the purpose of this section, “designated attorney of the*
35 *county of placement” means the attorney designated in subdivision*
36 *(1) of Section 6601 in the county of placement.*

37 *(5) This section shall not be construed to negate or in any way*
38 *affect the decision of the court of the county of commitment to*
39 *conditionally release the committed person in the county of*
40 *placement.*

1 ~~SEC. 4. Section 6608.5 is added to the Welfare and Institutions~~
2 ~~Code, to read:~~

3 ~~6608.5. (a) A person who is conditionally released pursuant~~
4 ~~to this article shall be placed in the county of the domicile of the~~
5 ~~person prior to the person's incarceration, unless both of the~~
6 ~~following conditions are satisfied:~~

7 ~~(1) The court finds that extraordinary circumstances require~~
8 ~~placement outside the county of domicile.~~

9 ~~(2) The designated county of placement was given prior notice~~
10 ~~and an opportunity to comment on the proposed placement of the~~
11 ~~committed person in the county, according to procedures set forth~~
12 ~~in Section 6609.1.~~

13 ~~(b) (1) For the purposes of this section, "county of domicile"~~
14 ~~means the county where the person has his or her true, fixed, and~~
15 ~~permanent home and principal residence and to which he or she~~
16 ~~has manifested the intention of returning whenever he or she is~~
17 ~~absent. For the purposes of determining the county of domicile,~~
18 ~~the court may consider information found on a California driver's~~
19 ~~license, California identification card, recent rent or utility receipt,~~
20 ~~printed personalized checks or other recent banking documents~~
21 ~~showing that person's name and address, or information contained~~
22 ~~in an arrest record, probation officer's report, trial transcript, or~~
23 ~~other court document. If no information can be identified or~~
24 ~~verified, the county of domicile of the individual shall be~~
25 ~~considered to be the county in which the person was arrested for~~
26 ~~the crime for which he or she was last incarcerated in the state~~
27 ~~prison or from which he or she was last returned from parole.~~

28 ~~(2) In a case where the person committed a crime while being~~
29 ~~held for treatment in a state hospital, or while being confined in a~~
30 ~~state prison or local jail facility, the county wherein that facility~~
31 ~~was located shall not be considered the county of domicile unless~~
32 ~~the person resided in that county prior to being housed in the~~
33 ~~hospital, prison, or jail.~~

34 ~~(c) For the purposes of this section, "extraordinary~~
35 ~~circumstances" means circumstances that would inordinately limit~~
36 ~~the department's ability to effect conditional release of the person~~
37 ~~in the county of domicile in accordance with Section 6608 or any~~
38 ~~other provision of this article, and the procedures described in~~
39 ~~Sections 1605 to 1610, inclusive, of the Penal Code.~~

1 ~~(d) The county of domicile shall designate a county agency or~~
2 ~~program that will provide assistance and consultation in the process~~
3 ~~of locating and securing housing within the county for persons~~
4 ~~committed as sexually violent predators who are about to be~~
5 ~~conditionally released under Section 6608. Upon notification by~~
6 ~~the department of a person's potential or expected conditional~~
7 ~~release under Section 6608, the county of domicile shall notify the~~
8 ~~department of the name of the designated agency or program, at~~
9 ~~least 60 days before the date of the potential or expected release.~~

10 ~~(e) In recommending a specific placement for community~~
11 ~~outpatient treatment, the department or its designee shall consider~~
12 ~~all of the following:~~

13 ~~(1) The concerns and proximity of the victim or the victim's~~
14 ~~next of kin.~~

15 ~~(2) The age and profile of the victim or victims in the sexually~~
16 ~~violent offenses committed by the person subject to placement.~~
17 ~~For purposes of this subdivision, the "profile" of a victim includes;~~
18 ~~but is not limited to, gender, physical appearance, economic~~
19 ~~background, profession, and other social or personal characteristics.~~

20 ~~(f) Notwithstanding any other provision of law, a person released~~
21 ~~under this section shall not be placed within one-quarter mile of~~
22 ~~any public or private school providing instruction in kindergarten~~
23 ~~or any of grades 1 to 12, inclusive, if either of the following~~
24 ~~conditions exist:~~

25 ~~(1) The person has previously been convicted of a violation of~~
26 ~~Section 288.5 of, or subdivision (a) or (b), or paragraph (1) of~~
27 ~~subdivision (c) of Section 288 of, the Penal Code.~~

28 ~~(2) The court finds that the person has a history of improper~~
29 ~~sexual conduct with children.~~

30 ~~(g) If the committed person has been conditionally released in~~
31 ~~a county other than the county of commitment, the jurisdiction of~~
32 ~~the person shall, upon request of the designated attorney of the~~
33 ~~county of placement, be transferred to the court of the county of~~
34 ~~placement.~~

35 ~~(h) This section shall become operative on January 1, 2016.~~

36 ~~SEC. 5.~~

37 *SEC. 3.* If the Commission on State Mandates determines that
38 this act contains costs mandated by the state, reimbursement to
39 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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